

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
Reply to Office Action of April 20, 2005

II. Remarks In Response to the Office Action

A. General Remarks

Claims 1-45 are pending in the application. Claims 1, 16, and 31 have been amended to improve the readability of the claims. In particular, Assignee has moved inferentially claimed elements of claims 1, 16, and 31 to the preamble. In claims 1, 16, and 31, "the one or more policies or definitions" were "associated with the database," and Assignee has made that recitation explicit rather than inferentially claimed. For example, claim 1 has been amended to recite "associating one or more policies or definitions with the database for managing database objects." Furthermore, the independent claims, such as claim 1, recite "actions to be performed on one or more database objects to modify the one or more database objects." Assignee has clarified that the actions are determined "based on the one or more policies or definitions," which was already inferentially claimed in the claims 1, 16, and 31. Also, in the independent claims, Assignee has explicitly recited "modifying the one or more database objects by performing the actions on the database objects," as in claim 1, so as to clarify what was already inferentially claimed by the independent claims. Because the amendments to claims 1, 16, and 31 appear to improve the readability of the claims and to clarify what was already inferentially claimed, Assignee does not believe that the amended claims 1, 16, and 31 have necessarily been narrowed by these amendments. Claims 5, 20, and 35 have been amended to provide proper antecedent basis.

B. Double Patenting Rejection

In the Office Action, claims 1-45 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as claiming the same invention as that of claims 1-36 of co-pending Application No. 09/990,583. The Office Action states that "[t]his is a provisional double patenting rejection since the conflicting claims have not if fact been patented...Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are broader than claims 1-36 of Vos et al. '708 which encompasses the same metes, bounds, and limitations."

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
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Assignee respectfully traverses the obviousness-type double patenting rejection with respect to claims of co-pending Application No. 09/990,583 ("the '583 Application"). The pending claims of the '583 Application were amended on Feb. 15, 2005 so that claims 4-7, 9, 16-19, 21, 28-31, and 33 of the '583 Application have been cancelled from the '583 Application. Therefore, the claims between the instant application and the '583 Application do not appear to encompass the same metes, bounds, and limitations as contended in the Office Action. Should it be necessary, however, Assignee may be willing to consider the filing of a Terminal Disclaimer.

C. First Claim Rejections - 35 USC § 102

In the Office Action, claims 1-45 stand rejected under 35 U.S.C. 102(b) as being anticipated by Barritz U.S. Patent No. 5,590,056 ("Barritz"). Assignee respectfully traverses the Examiner's conclusion that Barritz (US 3,870,665) anticipates the listed claims 1-45 in so far as Barritz does not disclose all the limitations of independent claims 1, 16, and 31. For Barritz to anticipate claims 1-45, Barritz must disclose each element contained in the claims, and there must be no difference between the claimed invention and the disclosure of Barritz.

Barritz appears to disclose a method of monitoring programs on a computer system by surveying storage devices and recording which products are installed on the computer system. This recorded information can be displayed to the user and can be compared against a list of licensed programs to determine whether there is compliance with a license. See Barritz at col. 6:55-65; col. 7:56-67; col. 9:11-62; and col. 0:50-67. For example, Barritz discloses a "monitoring program 22," which "records pertinent information in a recorded information log 62 when certain events occur." Barritz at col. 6, lines 55-57. The information recorded consists of "module name, the library name, the product ID," etc. See Barritz at col. 6, lines 58-65. The "monitoring program 22 can monitor, or 'see,' a system service requests..." Barritz at col. 7:56-57. Barritz also discloses a "surveying program 12," which "examine[s] the storage devices 14, 16, 18 on computer system 10 and determine[s] what executable files are present" and "determines which products are installed on computer system." Barritz at col. 9, lines 24-29.

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
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In addition, Barritz discloses a "reporting program 60," which can present information recorded in the system configuration log 66 to the user. *See* Barritz at col. 9, lines 29-40. "The monitoring program 22 can "be used to ensure compliance with licenses...[M]onitoring program is supplied with a list of software products to be monitored...[M]onitoring program checks the list whenever an event occurs which would require authorization, e.g., a program execution. If monitoring program 22 determines that authorization is to be denied, it causes the event to fail...issuing a warning message and...write an entry in recorded information log 62." *See* Barritz at col. 10, line 50 to col. 11, line 3.

In contrast, each of Assignee's claims 1 to 45 is directed to automated database management. For example, claim 1, as amended, recites:

1. (Currently Amended) An automated database management method for a database comprising one or more database objects, the method comprising:
 - associating one or more policies or definitions with the database for managing the database objects;
 - determining actions to be performed on one or more database objects to modify the one or more database objects based on the one or more policies or definitions;
 - modifying the one or more database objects by performing the actions on the database objects;
 - monitoring results of modifying the database objects; and
 - reconfiguring the one or more policies or definitions associated with the database based on the results of modifying the database objects.

Barritz fails to disclose the limitations recited in independent claims 1, 16, and 31. First, Barritz fails to associate one or more policies or definitions associated with a database for managing the database objects in the database. Instead, Barritz discloses a user-specified list of products for comparison to monitored events, such as a program execution or system service request. Second, Barritz fails to determine actions to modify one or more database objects based on the one or more policies or definitions and fails to modify the database objects by performing the determined actions on the database objects. Instead, Barritz monitors for events, such as a program execution or system service request. ***There are no modifications of database objects disclosed in Barritz that are performed on the database objects using determined actions.*** Because Barritz does not determine actions to modify and does not then modify the database objects, it follows that Barritz cannot and does not monitor results from performing the actions

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
Reply to Office Action of April 20, 2005

modifying the database objects. It likewise follows that Barritz cannot and does not reconfigure the one or more rules associated with the database based on the monitored results from performing the actions modifying the database objects.

For at least these reasons, Barritz does not disclose each element contained in the claims 1-45 and cannot anticipate claims 1-45. Therefore, Assignee believes that claims 1-45 are in proper form for allowance and respectfully request that the Examiner indicate the allowance of these claims in the next paper from the Office.

Moreover, Assignee wishes to point out that Barritz was cited in the Information Disclosure Statement filed Feb. 15, 2005 so that Barritz is not Assignee's admitted prior art, as has been suggested in the Office Action. In particular, the Information Disclosure Statement filed Feb. 15, 2005, in which Barritz was cited, explicitly states that "In accordance with 37 C.F.R. §§ 1.97(g),(h), this Information Disclosure Statement is not to be construed as a representation that a search has been made, and is not to be construed to be an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b), or that such information constitutes prior art."

D. Second Claim Rejections - 35 USC § 102

In the Office Action, claims 1-45 stand rejected under 35 U.S.C. 102(e) as being anticipated by Leung et al. U.S. Patent No. 6, 282, 570 ("Leung"). Assignee respectfully traverses the contention that Leung anticipates Assignee's claims 1-45. Furthermore, Assignee request that the Examiner give Assignee's arguments previously presented in this application their due consideration.

The "Response to Arguments" section of the Office Action states that "Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection." In the Appeal Brief filed in this application, Assignee presented arguments that Leung fails to anticipate Assignee's claims. When filing the Request for Continued Examination in this application, Assignee requested that the arguments in the Appeal Brief be considered. Given this history, Assignee fails to see why Assignee's previous

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
Reply to Office Action of April 20, 2005

arguments with respect to Leung are moot. Assignee's previous arguments directed to Leung would only be moot in view of the new ground(s) of rejections if the rejection of the claims to Leung has been withdrawn. If, however, Leung is still being cited against Assignee's claims 1-45 (as presented in the Office Action), then Assignee's previous arguments are not moot. Therefore, the Assignee would request that the Examiner consider Assignee's previous arguments and afford those arguments their due consideration if it is indeed the Examiner's position that the claims 1-45 are anticipated by Leung.

Nevertheless, Assignee again respectfully traverses the contention that Leung anticipates Assignee's claims 1-45 in so far as Leung does not disclose all of the limitations of independent claims 1, 16, and 31. First, Leung fails to disclose automated database management that (1) determines actions to be performed on database objects to modify the objects and (2) modifies those objects by performing those determined actions. Leung appears to be directed to monitoring the performance of a parallel database in a computer. Leung discloses a database monitor (206) that collects "performance statistics of database nodes based on instructions from the user." Leung at col. 4, ll. 10-11 and Fig. 2. In an illustrative example of the objectives of Leung's database monitor (206), Leung discloses that "users define what the database monitor does (e.g., a user may define which database instance to monitor). For example, a user may want to monitor the performance of a particular table in a database. Specifically, the user may want to check whether a table increases beyond a certain number of rows. If the table increases beyond a certain number of rows, the user may want the database monitor to prune the database. *In both cases, the user defines what the database monitor does.*" (emphasis added) *Id.* at col. 4, ll. 17-25.

Each of Assignee's claims requires that (1) actions to modify database objects be determined and (2) the determined actions be performed on the database objects. In contrast, the database monitor (206) in Leung does not determine actions to modify database objects. Rather, Leung's database monitor (206) requires the intervention of a user to define what the database monitor (206) does. Moreover, because Leung does not determine actions, Leung further fails to perform such determined actions, as is also required by Assignee's claims. Therefore, Leung

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
Reply to Office Action of April 20, 2005

cannot anticipate claims 1-45 because Leung does not disclose all of the limitations of Assignee's claims 1-45.

Second, Leung fails to disclose database management that (3) monitors results of modifying database objects and (4) reconfigures policies or definitions based on the monitored results, as required by each of Assignee's claims 1-45. In fact, Leung appears to contain no disclosure related to monitoring results of modifying database objects and reconfiguring policies or definitions for managing the database objects. Instead, Leung's database monitor (206) is used "to increase the precision of monitoring results returned to a user after successive iterations of monitoring" Leung at col. 2, ll. 26-27. In addition, Leung's database monitor (206) is used "to return the best results possible within a defined time limit and to minimize overhead across all nodes" *Id.* at col. 2, ll. 29-30; *See also* col. 13, ll. 46-48. To achieve these objectives, Leung discloses using time limits for collecting performance statistics and discloses using dynamic grouping and sequential sampling of parallel databases when processing a database monitor. *See Id.* at col. 5, ll. 21-55 and col. 6, ll. 1-6. The time limits associated with collecting statistics addresses problems with scalability for a large parallel database. These time limits may be defined by a monitoring application, which collects monitoring statistics and returns a performance value. *See* Leung at col. 5, ll. 28-35. Likewise, sequential sampling is used to collect performance data from a group of database nodes. *See Id.* at col. 8, ll. 41-65. Using time limits and sequential sampling to achieve its monitoring objectives, Leung discloses steps performed by a monitoring system (122). The monitoring system (122) uses the time limits, lists of nodes in a database group, and lists of snapshot buffers to monitor the database and collect performance statistics. *See Id.* at col. 10, ll. 22-54.

As noted previously, the automated database management of each of Assignee's claims requires that the actions to modify database objects be monitored and requires that one or more policies or definitions associated with the database be reconfigured based on the monitored results. Even though Leung does not determine actions to modify database objects and does not then perform those determined actions, Leung also does not disclose monitoring results of performing such determined actions and reconfiguring policies or definitions based on such monitored results. ***Rather, Leung discloses that the database monitor (206) and monitoring***

Appl. No.: 09/990,770
Amdt. dated July 20, 2005
Reply to Office Action of April 20, 2005

system (122) collect performance statistics of a parallel database in a reliable and timely fashion.

For at least these reasons, Leung does not teach or suggest all of the limitations of Assignee's claims 1-45. At most, Leung discloses collecting performance statistics of a parallel database. The collection of performance statistics is specified by a user and is done in a timely, reliable manner using time limits, grouping, and sampling. Therefore, Leung cannot anticipate Assignee's claims 1-45, and Assignee respectfully request withdraw of the rejection of claims 1-45 under 35 U.S.C. § 102(e) to Leung.

E. Fees

No fees are believed due at this time. The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application. Should any fees be due for any reason, the undersigned representative authorizes the Commissioner to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 501922, referencing order no. 149-0046US.

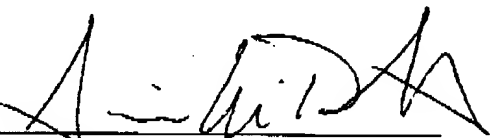
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Appl. No.: 09/990,770
Amdt. dated July 20, 2005
Reply to Office Action of April 20, 2005

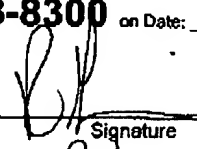
To facilitate the resolution of any issues or questions presented by this paper, Assignee respectfully requests that the Examiner directly contact the undersigned by phone to further the discussion, reconsideration, and allowance of the claims.

Respectfully submitted,

July 20, 2005
Date


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